

**LFC Requester:****Theresa Rodgers**

**AGENCY BILL ANALYSIS  
2016 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**    ☒ **Amendment**    ☐  
**Correction**    ☐ **Substitute**    ☐

**Date** 1/15/16

**Bill No:** HB 100

**Sponsor:** Rep. W. Rehm

**Agency Code:** 305

**Short Title:** USE OF FIREARM SENTENCING  
ENHANCEMENTS

**Person Writing** Nicholas K. Gilbert

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: NONE  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE****BILL SUMMARY**

HB 100 increases the mandatory term of incarceration under the firearm-enhancement statute from one (1) year to five (5) years for a first offense and from three (3) to seven (7) years for a second offense. Currently, when a person is convicted of a felony, in the commission of which a firearm was used, that person faces a mandatory enhancement to the basic sentence of that felony of one (1) year incarceration, unless that person has a previous felony wherein a firearm enhancement was applied, which would allow for a two (2) year enhancement. The proposed legislation expands by four (4) years the enhancement applicable to first-time offenders, while increasing the period of incarceration for second and subsequent offenses, wherein the use of a firearm was used, by five (5) years. Current case law allows prosecutors broad discretion in seeking the enhanced penalties under this statute, yet prosecutors cannot apply this enhancement to a conviction for felon in possession of a firearm under principles of double jeopardy.

**FISCAL IMPLICATIONS****SIGNIFICANT ISSUES****PERFORMANCE IMPLICATIONS****ADMINISTRATIVE IMPLICATIONS****CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP****TECHNICAL ISSUES****OTHER SUBSTANTIVE ISSUES****ALTERNATIVES****WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL****AMENDMENTS**